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Exempt Action Final Regulation Agency Background Document

Agency name	Department of Small Business and Supplier Diversity
Virginia Administrative Code (VAC) citation(s)	7 VAC 13-20-210 7 VAC 13-20-220
Regulation title(s)	Regulations to Govern the Certification of Small, Women- and Minority-Owned Businesses
Action title	Waiting and Waiver Period for Reapplication Reduced
Final agency action date	March 8, 2019
Date this document prepared	March 8, 2019

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The purposes of the Regulations to Govern the Certification of Small, Women- and Minority-Owned Businesses, 7VAC13-20, are (i) to establish minimum requirements for the certification of small, women and minority-owned (SWaM) businesses pursuant to Chapter 16.1 (§ 2.2-1603 et seq.) of Title 2.2 of the Code of Virginia, and (ii) to provide a process for evaluating local, state, private sector, and federal certification programs that meet those requirements.

This regulatory action amends 7VAC13-20-210 and 7VAC13-20-220. The amendment to 7VAC13-20-210 shortens the timeframe a business may reapply for SWaM certification from 12 months to six months if their certification is revoked. The amendment to 7VAC13-20-220 shortens the timeframe a business may

reapply for SWaM certification from 12 months to six months if their certification is denied. It also addresses the time period with which a waiver can be requested.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The agency has received no mandate to promulgate these regulatory changes. However, based on internal review and feedback from stakeholders the agency is shortening the period businesses must wait to seek SWaM certification reapplication in an effort to streamline the certification process.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Department of Small Business and Supplier Diversity submitted this regulatory action on March 8, 2019 to amend 7VAC13-20-210 and 7VAC13-20-220 of the Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses.

**Periodic Review
Small Business Impact Review Report of Findings**

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This regulatory change was not the result of required periodic review. However, this regulatory change will support a more streamlined reapplication process for small businesses.

Commenter	Comment	Agency response

The agency has received feedback from the public that the twelve-month waiting period for reapplication is too long after a business has been denied certification or had their certification revoked. The agency

routinely reviews and updates this section of regulation to ensure efficiency throughout the process. The last update to this regulatory section was completed the end of 2017. This regulation continues to be necessary as it defines the rules by which SWaM certification eligibility will be defined. The regulations as written are not overly complex and provide for straightforward interpretation.